

August 31, 2009

Ginger Garrett, Executive VP-CFO
High Plains Federal Credit Union
101 W. Llano Estacado
Clovis, NM 88101

Re: Mailing of Insufficient Funds (NSF)/Overdraft Fee Notices to Members.

Dear Ms. Garrett:

You have asked if NCUA's regulations require federal credit unions (FCUs) to send a notice each time a member incurs an NSF or overdraft fee. No, FCUs are not required to send a notice each time but NCUA's regulations require FCUs to include NSF and overdraft fees in their periodic statement disclosures of fees charged to an account. Although not required to do so, NCUA guidance states it is a "best practice" to notify members promptly.

Disclosures of NSF and overdraft fees are generally governed by NCUA's Truth in Savings Act (TISA) rule. NCUA's TISA rule requires periodic statements to include a disclosure of any fees, including those for NSFs and overdrafts, debited from an account during the statement period. 12 C.F.R. §707.6(b)(3). An FCU must itemize the fees by type and dollar amount. *Id.* Please note that a recent amendment to NCUA's TISA rule also requires the disclosure of the total dollar amount of overdraft fees charged to an account in both the statement period and the calendar year to date. 12 C.F.R. §707.11. The total dollar amount includes per item fee, interest charges, daily or periodic fees or fees charged for maintaining the account in an overdraft status. 12 C.F.R. §707.11(a)(1)(4).

NCUA's Letter to Credit Unions 05-CU-03, Overdraft Protection (Bounce Protection) Programs (February 2005), included interagency "best practices" guidance, which, among other things, recommends an FCU notify a member of an overdraft fee promptly. The guidance states it is a best practice to "promptly notify consumers when overdraft protection has been accessed, for example, by sending a notice to consumers the day the overdraft protection program has been accessed." *Id.* The best practices are, however, guidance and not regulatory requirements. If you have any further questions, please contact staff attorney Justin Anderson or me.

Sincerely,

/S/

Sheila A. Albin
Associate General Counsel

09-0608
GC/JMA:bhs